IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 380 of 2005

Between:

M.Narasaiah S/o.M.Lalxminarayana E-78675,
Srirangam Narsimha Rao Church Compound,
Besides Praja Cable Office, Suryapet, Nalgonda Dist.

..... PETITIONER

AND

1 The Presiding Officer, Labour Court No.111,
Hyderabad.
2 The Depot Manager, APSRTC,Kodad Depot,Kodad,Nalgonda dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the order, dated 30.11.2004 passed in S.R.No.2993 of 2004 by the 1st respondent-Court as illegal, arbitrary and contrary to the judgment of the Apex Court reported in Supreme Court Labour Judgments Vol.7 page 205 and further direct the 1st respondent to number the I.D without insisting for issuance of Notice Under Rule II (6) of A.P. Industrial Disputes Rules, 1958.

Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY

Counsel for the Respondents: None appeared

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the order, dated 30.11.2004 passed the 1st respondent in S.R.No.2993 of 2004 as arbitrary and illegal.

The learned counsel for the petitioner has contended that the petitioner filed an appeal before the Divisional Manager, Suryapet, questioning the decision of the 2nd respondent-management in dismissing him from service and the said appeal was dismissed. The petitioner, raised an industrial dispute before the 1st respondent-Labour Court, but it was returned for issuance of 15 days notice to the management as prescribed under Rule 11(6) vide Form K-4 of A.P.Industrial Tribunal Rules and the Tribunal refused to number the industrial dispute on the ground that the said dispute was incompetent and against the Rule 11(6) vide Form K-4 of the A.P. Industrial Disputes Rules. Hence, he prays to set aside the same.

None appears for the respondents.

The learned counsel for the petitioner relied upon a decision reported in **SHAMBHUNATH GOYAL Vs. BANK OF BARODA** , wherein the Apex Court held to the following effect:

> *"In this case, the Tribunal completely misdirected itself when it observed that no demand was made by the workman claiming reinstatement after dismissal. When the enquiry was held, it is*

an admitted position, that the workman appeared and claimed reinstatement. After his dismissal, he preferred an appeal to the appellate forum and contended that the order of dismissal was wrong, unsupported by the evidence and in any event, he should be reinstated in service. If that was not a demand for reinstatement addressed to the employer what else would it convey. That appeal itself is a representation questioning the decision of the management dismissing the workman from service and praying for reinstatement……. Therefore, the Tribunal was in error in rejecting the reference on the ground that the reference was incompetent."

As seen from the impugned proceedings, it is clear that the Presiding Officer returned the petition for issuance of 15 days notice to the management as prescribed under Rule 11(6) read with Form K-4 of A.P. Industrial Rules. No doubt that is a requirement for the employee to give 15 days notice to the management but at the same time, it is required to be noticed that when an appeal is filed, it can be said to be a representation questioning the decision of the management in dismissing the workman from service as held by the Apex Court. Therefore, the order returning the industrial dispute raised by the petitioner is contrary to law laid down by the Supreme Court in the aforementioned decision. Hence, the order passed by the 1st respondent is liable to be set aside.

In the light of the above, the order of the 1st respondent is set aside and the Presiding Officer is directed to number the Industrial Dispute if it is otherwise in order.

The writ petition is disposed of in terms of the above direction. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

1st February, 2005.

bcj

To

1 The Presiding Officer, Labour Court No.111, Hyderabad.
2 The Depot Manager, APSRTC,Kodad Depot,Kodad,Nalgonda dist.

3 Two C.Cs. to the Government Pleader for Labour, High Court Buildings, Hyderabad (OUT)

4 Two C.D.Copies.

Note: Furnish C.c. in one week.

B/o.

bcj